

1870-004 Chancery Causes: Zion Flanery & vs. Mathew Cole &  
Lee Co.

Hurt, Milbourn, Kirk

1 Plat

CA - Estate Dispute  
T - Property



To the ~~Worshipful~~ County Court, of Lee County,  
in chancery now sitting:—

Your araters John Manery and Rees B. Manery humbly  
complaining sheweth unto your worships, that, some-  
time in the year 185- one John Kirk, departed  
this life, but before doing so he made and  
published, his last will and testament, devising  
among other things, a certain tract or parcel  
of land, containing about 130 acres situate about  
2½ miles N. of the town of Jonesville, to Helen M-  
Cole, ~~And her~~ four children, to wit. Matthew Cole  
Willmington T. Cole, John Cole and Morhat Cole  
this devise being made jointly to them. They became  
entitled to 1/5<sup>th</sup> each; the said Helen M. Cole and  
conveyed, her interest, which was partitioned  
and layed off to her; but before, selling the same  
she intermarried with one Merideth C. Hunt, ~~and~~  
~~before her marriage she conveyed to her said~~  
~~husband and her said husband, the said~~  
~~interest; and this same interest is all that~~  
~~said R. B. M. Cole has in this suit; since the~~  
said marriage aforesaid, Willmington T. has  
departed this life, single and ~~unmarried~~, and  
his interest 1/5 of the whole, has descended to  
Helen M. the mother, and the other <sup>heirs</sup> his brothers  
and sisters; the said Helen M. and her husband  
Merideth C. Hunt, have sold, but not conveyed  
as your araters believe, their interest in the said  
Willmington's, share to one John Milbourn  
and this portion of this share constitutes the  
said Milbourn's, interest in this share. ☉  
Your araters have purchased from, Matthew  
Cole, his entire, share in the said lands, both  
by devise, and descent.



And he <sup>has</sup> made his title bond therefor, which is  
herewith filed marked X, and prayed to be  
considered. Herewith, Partition has never  
been made between the parties, entitled to  
said lands, except the part devised to the said  
Helen M. and which now by subsequent pur-  
chase, is ~~now~~ in the possession of your orators  
<sup>who</sup> own other lands adjoining, the aforesaid tract  
of land - The object of this bill therefore is  
to have partition of the said, 130. acre tract of  
land made between the parties entitled and  
herewith same done in the manner most likely  
to promote the interest of all concerned. The  
said John Cole & Martha Cole are infants  
under 21 years of age.

Your Orators' prayer therefore is that  
Matthew Cole, John Cole, Martha Cole  
Merideth C. Hunt & Helen M. His wife formerly  
Helen M. Cole. ~~Bonaparte M. Cole~~, & John  
Millsbourn be made parties defendant  
to this bill, and answer the same, that  
a guardian ad litem be appointed to  
answer <sup>for</sup> them, and that a decree be  
entered, directing partition in accordance  
with the object of this bill: & for all such  
other further & general relief may ~~be~~ <sup>be</sup> ~~issue~~ <sup>issue</sup>  
issue &c -

Wm. A. Pritchard

② Your orators, by law to state, that above purchase  
by Millsbourn as aforesaid, they understand, was by  
agreement between the parties, to be a certain  
& acre price which adjoins, him, and for which  
they understand he holds, the title bond of the  
said Helen M. which in the event he produces  
they name, your orators are willing for him to have  
since it does not affect them, or any other  
party concerned, as it not more than his  
share thereof: they therefore give their  
consent, for him to have said & acres  
if they are properly informed in reference  
thereto



Date C. 5. 57  
 J. B. M. C. 4. 76

III

Geo & Russ B. Flanery

vs Rice in Chy

Mathew Cole et als.

1869. Oct. Bill Filed Spec Exd and  
 Decree Sicut Constituted  
 Nov. - Decree Sicut Conf  
 Decr Continued  
 1870 Jan. Continued  
 Feb. Cause set for hearing before  
 Feb Term Decree & Costs  
 March - Decree Substituting  
 April - Continued  
 May. Decree final  
 Cause Stricken from  
 the docket.

927  
 127

99.21

117

6.01

610.34  
 A 5.00  
 J. B. M. C. 5.00  
 Court 31.01  
 S 2.50  
 T .50  
54.35

chd 511

chd 119



To the Worshipful County Court of Lee County in Chancery  
sitting, the answer of John Cole & Martha Cole, by their  
guardian ad litem Peter C. Johnston, ~~respectfully~~ to a bill  
filed in said Court by Zion & Rees B. Flannery against  
them & others, respectfully shews:

That saving & reserving now and at all times hereafter  
all just & proper exceptions to the Compt's bill <sup>he</sup> ~~they~~ answers,  
That <sup>his wards opposed</sup> ~~they~~ are owners, as stated in said bill, of ~~one fourth~~ part  
jointly of the tract of land in said bill mentioned as sit  
forth therein; that this said guardian knows no good  
reason why the partition sought by the Compt's should  
not be made; and he invokes for his wards the care  
and protection of the Court, as they are infants, only  
praying your worship, that the shares of said land  
allotted to the said John & Martha may be laid off  
so as to adjoin each other, and that the partition among  
all the parties shall be just and equal.

Having thus fully answered said bill, or so much thereof  
as it is material should be answered. he prays &c.

P. C. Johnston Guardian  
ad litem for John and  
Martha Cole,

1870-Feb.

Rees & Zion Flannery to P. C. Johnston Dr.

To filing answer as Guardian ad litem for John }  
& Martha Cole, at your suit. . . . . } \$5.00



P. C. Johnston, Guardian ad litem  
for John Martha Cole

ad. } answers.

Zion & Ken Flannery

Sworn to ~~before me~~ in

open Court Feb 22/70.

J. W. West Dr



Grim & Reese B. Flanery - pl. ff.

Matthew W. Cole et als defts

In ch

This cause came on again this day to be heard upon the papers formerly read in the cause, and the report of Cor Bailey John A. Warner & William B. Martin former comes in this cause, and was argued by counsel; and it appearing to the Court that the said report has been filed more than 30 day before the entrance of this decree, among the papers of the cause, and being unaccepted to the same is hereby confirmed. On consideration whereof the Court is of opinion and doth so adjudge order & decree, that, the plaintiffs Reese B. Flanery, & Grim Flanery, do take & hold in fee the lot assigned them in said report free from the claims, of all others - said lot is designated on said plat accompanying said report by figures 1, 2, 3, 4, 5, 6, 11, <sup>containing 64 acres more or less</sup> that John Cole hold free from the claims of all others the lot assigned him designated on said plat & report by figures 2, 13, 12, 11, 10, 9, 8, 7, 4, & 2, <sup>containing 64 acres more or less</sup> and that Martha R. Cole hold free from the claims of all others, the lot assigned her designated on the said plat & report by figures, 9, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 28, <sup>containing 64 acres more or less</sup> and that John Milbourn hold free from the claims all others, the lot assigned him & designated on the said plat & report by figures 21, 22, 23, 24, 25, 26, 27, 28, 29, 21 and contains 10 acres more or less; and it further adjudged ordered & decreed that Reese B. Flanery & Grim Flanery, and those claiming under them have free access, to the water, on the lot assigned John W. Cole. and the said report is ordered to be recorded, in the deed book of the county court of this county -



And it is further adjudged ordered and  
 decreed, the plaintiff ~~shall~~ ~~pay~~ ~~off~~ ~~from~~ ~~the~~  
 defendants ~~their~~ ~~costs~~, pay the costs of this suit  
 in proportion to the above, that each is entitled  
 to, that is that the plaintiff recover their costs  
 off the defendants, except their due portion accord-  
 ing to the interest which they hold -

And no further action being necessary the  
 cause is stricken from the docket -

Russell B. Givens

vs. Breese & Co

James Dole et al

May 5 1871

5.57  
 3.95  
 9.52

6.84  
 5.57  
 1.47

chd p 19



Given & Bess B. Stanley } In Chy.  
against  
Mathew Cole and others }

This cause came again this day again  
to be heard upon the papers formerly  
read in the cause - And was argued by  
counsel; and it appearing to the Court  
that, the former commissions in this cause  
have not made partition, of the land in the  
bill mentioned, as directed by a former decree  
in this cause it is therefore adjudged ordered  
and decreed, that Con Bailey, John Worners  
& Wm. S. Martin, be and the same are hereby  
appointed commissioners in this cause whose  
duty it shall be, to go upon the land in  
the bill mentioned, and make partition of  
the lands in the bill mentioned according to  
to a decree rendered in this cause, at  
the February term 1870, <sup>and report their action with a plat & map of partition</sup> And this cause  
is continued -

the next term of this court



John & Russ B. Talney

vs } Greene

Mathew Cole et al

March T 1870



Grin & Reese B. Flanery - plffs } In Chy.  
Against  
Mathew Cole et als --- wfts }

On the motion of the plaintiffs in this Cause P. C. Johnston is appointed guardian ad litem, for John Cole and Martha Cole, infant defendants; and on his motion, leave is granted him, to file the answer of his said wards which is accordingly done.

And thereupon this cause, came on to be heard upon the bill of the plaintiffs the answer of John Cole and Martha Cole infants, by P. C. Johnston, their guardian ad litem; and process having been duly executed on the adult defendants and they still, failing to appear and answer the bill as to them is taken for confessed.

Therefore the Court, ~~doth~~ <sup>adjudge</sup> order and decree, that Carr Bailly, William Hamblin, and John Warner, be and the same are hereby appointed Commissioners whose duty it shall be to go upon the land <sup>make partition thereof equally among the parties entitled thereto</sup> in the bill mentioned, and having due regard, to quantity and quality, that they lay-off and assign to the plaintiffs adjoining the lands they now own, the share to which Mathew Cole, is entitled; it being  $\frac{1}{5}$  of the entire tract, and also  $\frac{1}{4}$  of  $\frac{1}{5}$ , being the land the said Mathew Cole, is entitled to by descent, from Willington F. Cole deceased. And that one fifth, of the whole tract



and  $\frac{1}{4}$  of  $\frac{1}{5}$ , be assigned to each of the  
infant defendants, and that these two  
shares be laid off adjoining each other  
and it appearing from the statements  
and allegations of these <sup>bills</sup> that Helen M. Hurt  
~~Hurt~~ is entitled to  $\frac{1}{4}$  of  $\frac{1}{5}$  - as heir of the  
said William <sup>- son of</sup> F. Colo.; and it appearing  
to the Court that John Milbourne, has pur-  
chased the same from the said Helen M.  
and having a title bond therefor on file with  
the papers of this cause - The said Com-  
missioners are directed, to lay off and  
assign, to the said John Milbourne, the  
share to which the said Helen M. is <sup>so</sup> en-  
titled: And if the same can be done with-  
out prejudice to the infants, the Commis-  
sioners, are directed to assign the land  
or so much thereof the said Helen M. is  
entitled, to John Milbourne, <sup>adjoining his land and</sup> now in his  
possession, <sup>or so much thereof as he may be entitled to</sup> under the contract, from  
the said Helen M. And ~~no further action~~  
~~being necessary~~ the cause is concluded

Oct. 3. 607 - 8.

Wm. H. Beece  
Matthew Cole Clerk.



Virginia,

At a County Court continued & held for Lee County February 22. 1870.

Green & Reese B. Filmer

Plaintiffs

against

In Chancery.

Matthew W. Cole et als.

Defendants

Among other things in this Cause, the Court adjudged, ordered, and decreed that Carr Bailey, William Hambley, and John Warner be appointed Commissioners, whose duty it is made to go upon the land in the Bill mentioned and make partition thereof equally among the parties entitled thereto, having due regard to quantity and quality; that they lay off and assign to the Plaintiffs adjoining the land they now own. the share to which Matthew Cole is entitled, it being  $\frac{1}{5}$  of the entire tract, and also  $\frac{1}{4}$  of  $\frac{1}{5}$  being the land said Cole is entitled to by descent from William F. Cole deceased, and that  $\frac{1}{5}$  of the whole tract, and  $\frac{1}{4}$  of  $\frac{1}{5}$  be assigned to each of the infant defendants, and that these two shares be laid off adjoining each other; and it appearing from the <sup>statements and</sup> allegations of this Bill that Helen M. Hurt is entitled to  $\frac{1}{4}$  of  $\frac{1}{5}$  as heir of the said Wilmington F. Cole; and it appearing to the Court that John Milbourne has purchased the said share from the said Helen M. and having a title bond therefor on file with the papers of this Cause, the said Commissioners are directed to lay off and assign to the said John Milbourne the share to which the said Helen M. is so entitled, and if the same can be done without prejudice to the infants the Commissioners are directed to assign the land or so much thereof as the said Helen M. is entitled to, to John Milbourne adjoining his land and now in his possession or so much thereof as he may be entitled to, under the contract, from the said Helen M. And the Cause is continued.

A copy.

Lester John B. West, D. Clerk

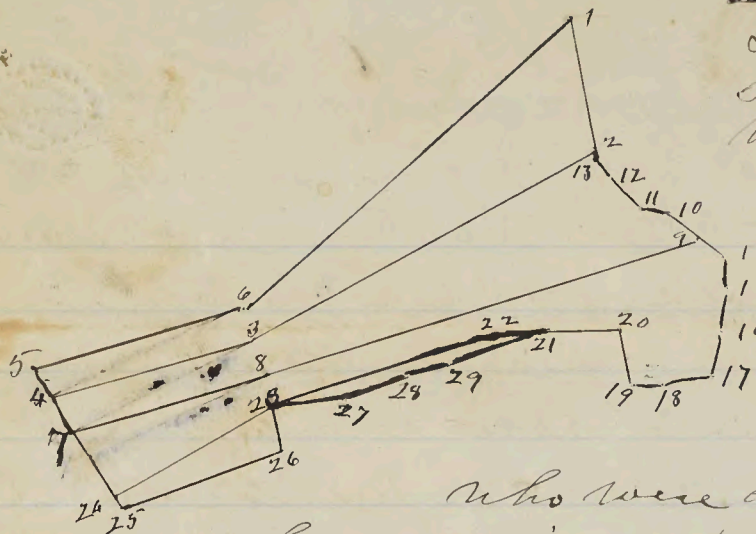


Yion & Rees B. Flanery  
vs. } Copy of part of Decree

Matthew W. Cole et als.

Delivered to Rees B. Flanery  
3 copies of this.  
H. J. M.





To the Worshipful County Court of  
~~Lee County~~  
 Zion & Reese B. Flanary  
 plaintiffs against Matthew  
 W. Cole & Defendants  
 In Chancery, Pursuant

to a decree of four  
 Worshipful body  
 dated 22. day of February  
 1870. The undersigned

who were appointed by said decree  
 Commissioners for the purpose have  
 partitioned the land in the bill mentioned among  
 the parties entitled thereto in accordance to said decree  
 and beg leave to report: We have laid off and  
 assigned to the plaintiffs Zion & Reese B. Flanary, the  
 share to which Matthew W. Cole is entitled; it being  
 $\frac{1}{5}$  of the entire tract, and also  $\frac{1}{4}$  of  $\frac{1}{5}$  which is  
 bounded as follows to wit: Beginning at a tripple  
 chestnut a chestnut sprout & a small black oak, by an  
 old road on the top of the chestnut ridge corner to  
 a 50 acre tract laid off and assigned to Helen M. Hunt  
 and deeded by her and Merideth Hunt to William  
 Horton which tract now belong to the said plaintiffs,  
 which corner is also on a line of the heirs of Thomas Garrett  
 thence with said line S 79 W 76 poles to 2 Sourwoods &  
 2 chestnuts near the old road thence N 35 W 200 poles to a  
 stake in a field thence N 20 W 80 poles to a stake on the  
 top of the Poor Valley ridge & along the top of the same  
 N 73 E  $18\frac{2}{3}$  poles to a stake corner to said 50 acre tract  
 & with lines thereof S 20 E 72 poles to a stake in a field thence  
 S 49 E 240 poles to the beginning: containing 60 acres more or less  
 (See Fig. 1, 2, 3, 4, 5, 6, 1)



And we have laid off and assigned to John W. Cole one of the infant defendants  $\frac{1}{5}$  of the whole tract and  $\frac{1}{4}$  of  $\frac{1}{5}$  which is bounded as follows to wit: Beginning at 2 Sownoods & 2 Churns near the old road corner to the tract laid off and assigned to the plaintiffs; Thence S 79 W 4 poles to a stake in the old road & with the same S 28 W 10 poles to a stake S 45 W 24 poles to a stake S 12 W 10 poles to a stake on the top of said churn ridge Thence S 34 W 20 poles to pointers in said road Thence N 23  $\frac{1}{2}$  W 232 poles to a stake in a field Thence N 20 W 84 poles to a stake on the top of the Poor Valley ridge & along the top of the same N 82 E 18  $\frac{2}{3}$  poles to a stake corner to the said tract laid off and assigned to the said plaintiffs & with lines thereof S 20 E 80 poles to a stake in a field; Thence S 35 E 200 poles to the beginning containing 68 acres more or less. (See Fig. 2, 13, 12, 11, 10, 9, 8, 7, 4, 3, 2) And we have laid off and assigned to Martha R. Cole one of the infant defendants  $\frac{1}{5}$  of the whole tract and  $\frac{1}{4}$  of  $\frac{1}{5}$  which is bounded as follows Beginning at pointers on the top of the churn ridge in the old road, corner to the tract laid off and assigned to John W. Cole Thence along said old road S 34 W 17 poles to a stake Thence S 81 W 14 poles to a stake Thence West 22 poles with an other old road to a stake Thence N 80 W 22 poles leaving the top of said ridge to a stake near a poplar Thence N 12 W 27 poles to a stake Thence N 2 E 12 poles to a stake on the old Garrett line & with the same N 79 E 29 poles to a stake & a dogwood corner to John Milburn's land & with a line thereof North 35 poles to a stake on the west side of a gravelly ridge near a Spring branch; Thence N 11 W 23 poles to a stake by the road

Thence N 19 W 120 poles to a Gum by a fence Thence N 27 W 86 poles to a stake on the top of the Poor Valley ridge & with the top of the same N 85 E 31 poles to a stake corner to the tract laid off and assigned to the said John W. Cole & with lines thereof S 20 E 84 poles to a stake in a field Thence S 23  $\frac{1}{2}$  E 232 poles to the beginning containing 64 acres more or less (See Fig. 9, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 7, 8, 9). And we have laid off and assigned to John Milburn  $\frac{1}{4}$  of  $\frac{1}{5}$  of the entire tract, being the share that the said Helen M. Hunt is entitled to as heir of Wilmington F. Cole deceased which is bounded as follows to wit: Beginning at a stake on the west side of a gravelly ridge near a Spring branch corner to said Milburn's land & also corner to the tract laid off and assigned to the said Martha R. Cole & with lines of the latter N 11 W 23 poles to a stake by the road Thence N 19 W 120 poles to a Gum by a fence Thence N 27 W 86 poles to a stake on the top of the Poor Valley ridge Thence along the top of the same S 85 W 9 poles to 2 Churn oak & a locust on the top of said ridge corner to said Milburn's land & with lines thereof S 20 E 86 poles to a buckeye in a field N 74 E 21 poles to said Gum S 9 E 36 poles to a double dogwood in a hollow S 25 E 35 poles to a white oak by a cane S 14 E 20 poles to a white oak now gone, Thence S 23 E 50 poles to the beginning containing 16 acres more or less. All of which is respectfully submitted to the said Sir & Recd. by the said John W. Cole Carr Bailey }  
March 25. 1870

John A. Warner }  
William S. Martin } Commissioners



Commissioner's fee		\$19.01
Carroll Bailey, per running & setting corners &c.		
John A. Warner corner 2 days		4.00
William S. Martin corner 2 days		4.00
Lease Burton chain corner 2 days		2.00
Reese B. Flanary " " "		2.00

Zion & Reese B.  
 Flanary Plaintiffs  
 against  
 Matthew W. Cole et al.  
 Defendants  
 Commissioners Report  
 and diagram of the  
 partition of the lands  
 in the bill mentioned

April 18-1870 Filed  
 J.B. West Clk.

Recorded in Deed Book  
 No 16. Page 48-9  
 J.W. Orr. L. Clk.



Article of agreement made & entered  
into this 21<sup>st</sup> day of March A.D. 1867, by  
and between Helen Hurt of Lee County  
Virginia of the first part and John Milbourn  
of the said County & State of the other part,  
Witnesseth that the said party of the first  
part has sold to the said party of the second  
part Eight Acres of land off the place on  
which said Helen Hurt now resides, ly-  
ing on the South Side of the Poor-Valley  
Ridge and adjoining the land once owned  
by William Daugherty and now by said  
Milbourn, for the sum of one hundred  
& sixty Dollars, and the said Helen Hurt  
in consideration of the said premises  
hereby acknowledges herself, her heirs  
and Administrators and Executors,  
to be held and firmly bound unto  
said Milbourn in the penal sum  
of Three hundred & Twenty Dollars, to  
make, or cause to be made a deed with  
general warranty to said Milbourn  
in a reasonable time for said Eight  
acres of land. And when said deed as  
aforesaid is made, then this obligation  
to be void and of no effect, otherwise  
to remain in full force and virtue.  
In witness whereof the said party  
of the first part has hereunto sub-  
scribed her name and affixed her  
seal the day and year first before  
written.

Test  
John D. Sharp

Helen <sup>her</sup> X Hurt. Seal  
mark



Helen Hunt

Little  
Bond  
to John  
Milbourn

"A"



The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY—GREETING:

WE COMMAND YOU TO SUMMON *Matthew Cole, John Cole, Meredith  
Hurt and Helen Hurt, his wife, formerly Helen Cole,  
(and) John Milbourn, and Matthew Cole.*

to appear before the Justices of our County Court for Lee county, at the Court House, in the Clerk's  
Office, at Rules to be holden for the said court, on the *first* Monday in *October*  
next, to answer a bill in chancery, exhibited in our said court, against *them* by *Zion  
Flanery and Reese B. Flanery*

And have then there this writ. Witness, JOHN B. WEST, Deputy for SYLVESTER E.  
THOMPSON, Clerk of our said Court, at the Court House, this, *27* day of *September*  
186 *9*, in the *94*<sup>th</sup> year of the Commonwealth.

*Lease- John B. West, D.* Clerk



Zion Flanery et al

vs { Sfa in Chij

Matthew Cole et al.

October Rules 1869.

Executed by delivering  
a true copy of the within  
to Meredith Hurt, Helen  
Hurt, John Milburn,  
Martha Cole, & by  
leaving a true copy of  
within for John Cole, with  
his mother.

C. C. Bell D.L.

for W. W. Sage S. L. C.



The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY—GREETING:

WE COMMAND YOU TO SUMMON *Mathew Cole, John Cole, Meredith Hurt and Helen Hurt, his wife, formerly Helen Cole (and John Cole and Martha R. Cole.*

to appear before the Justices of our County Court for Lee county, at the Court House, in the Clerk's Office, at Rules to be holden for the said court, on the *first* Monday in *October* next, to answer a bill in chancery, exhibited in our said court, against *them* by *Zion Flanery and Reece B. Flanery*

And have then there this writ. Witness, JOHN B. WEST, Deputy for SYLVESTER E. THOMPSON, Clerk of our said Court, at the Court House, this, *27* day of *September* 186*9*, in the *94*—year of the Commonwealth.

*Leste- John B. West, D.* Clerk



I accept the legal services of the within writ  
this 24 day of September 1869, Matthew H. Cole

vs John Flanery et al  
vs 3/4 in ch  
Matthew Cole et al  

---

October Rules 1869